



County of Los Angeles CHIEF EXECUTIVE OFFICE

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June 5, 2015

SACHI A. HAMAI
Interim Chief Executive Officer

To: Mayor Michael D. Antonovich
Supervisor Hilda L. Solis
Supervisor Mark Ridley-Thomas
Supervisor Sheila Kuehl
Supervisor Don Knabe

From: Sachi A. Hamai
Interim Chief Executive Officer

Board of Supervisors
HILDA L. SOLIS
First District

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Second District

SHEILA KUEHL
Third District

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Fifth District

SACRAMENTO UPDATE

Executive Summary

This memorandum contains pursuits of County positions on the following measures:

- **Pursuit of County Position to Oppose AB 305 (Gonzalez).** This measure would prohibit the use of certain gender-related characteristics in the calculation of permanent disability benefits. Therefore, unless otherwise directed by the Board, consistent with existing policy to oppose legislation that erodes reforms accomplished by FY 2003-04 and FY 2011-12 workers' compensation reform legislation and oppose legislation that increases workers' compensation benefits unless it maintains a fair and equitable balance for employers and employees within the reforms previously adopted by the Legislature; and policy to oppose legislation that eliminates current requirements that employees demonstrate on-the-job exposure in order to qualify for workers' compensation, **the Sacramento advocates will oppose AB 305.**
- **Pursuit of County Position to Support SB 208 (Lara).** This measure would allow a project proponent that is awarded a grant under the Integrated Regional Water Management Planning (IRWMP) Program, to receive an advance payment of up to 50 percent of the grant award provided that specific conditions are met. Therefore, unless otherwise directed by the Board, consistent with existing policy to support legislation to increase the reliability of State and local water supplies with appropriate infrastructure and equitable funding levels utilizing the following principles: Local Water Reliability and Conservation, Protection and Improvement of Water Quality, New Water Supplies, Conveyance and Storage, Equitable Allocation Criteria for Regional Projects, Bond Funding and Appropriations consistent with other County principles, and Delta Sustainability, **the Sacramento advocates will support SB 208.**

"To Enrich Lives Through Effective And Caring Service"

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Pursuit of County Position on Legislation

AB 305 (Gonzalez), which as amended on April 30, 2015, would prohibit the use of certain gender-related characteristics in the calculation of permanent work-related disability benefits by requiring: 1) the impairment ratings for breast cancer to be not less than the comparable ratings for prostate cancer; 2) that disability apportionment not be based on pregnancy, menopause, or osteoporosis if these conditions are contemporaneous with the claimed physical injury; and 3) apportionment in cases of psychiatric injury shall not include psychiatric disability or impairment caused by sexual harassment that is contemporaneous with the claimed psychiatric injury.

Under the State's existing workers' compensation system, permanent disability determinations are made using the American Medical Association Guides to the Evaluation of Permanent Impairment (*AMA Guides*). The *AMA Guides* were developed by medical experts to improve consistency, validity, and reproducibility in permanent disability ratings. Employers are only financially liable for the percentage of permanent disability caused by the work related injury. Physicians are required to apportion the percentage of permanent disability caused by the direct result of the industrial injury and the percentage of permanent disability caused by other factors not related to employment. Non-industrial factors can be present before, during, and after the industrial accident. Such non-work related factors do not increase an employer's workers' compensation financial liability. The current process for apportionment has been found by the courts to be in compliance with the laws prohibiting discrimination. The County supported these reforms and has adopted policy to oppose legislation that undermines those important changes in law.

The Chief Executive Office – Risk Management Branch (CEO-RMB) states that the workers' compensation reform of 2004 established that an employer is only liable for the percentage of permanent disability directly caused by a work-related injury. As proposed, AB 305 would undermine the intent of the current apportionment statute by eliminating the ability of physicians to apportion permanent disability to non-industrial factors, such as menopause, osteoporosis, or pregnancy. According to the CEO-RMB, this would result in employers becoming liable for medically determined disabilities ascribed to factors that are considered to be unrelated to employment. CEO-RMB also advises that AB 305 could make employers potentially liable for non-work related effects of sexual harassment on an employee's psyche. Additionally, the measure connects the impairment of one disease impacted body part (breast cancer) to an unrelated disease impacted body part (prostate cancer). CEO-RMB indicates that AB 305 would erode the scientifically based classification of impairment which is not required because under current law a physician has the ability to determine an impairment using the "four corners" of the *AMA Guides* to establish permanent disability. County Counsel concurs that the measure should be opposed.

AB 305 is similar to other County-opposed measures, including AB 1155 of 2011, SB 145 of 2010, and SB 1115 of 2008. These three measures passed the Legislature, but were vetoed by the Governor in office with the consistent message that existing law and court rulings already provide protections for injured workers from inappropriate application of apportionment and discrimination. In his veto message of AB 1155, Governor Brown further noted that the proposed changes to existing law would generate new litigation and could disturb the appropriate interpretation of existing law by the courts.

This office and County Counsel oppose AB 305. Therefore, consistent with existing Board policy to: 1) oppose legislation that erodes reforms accomplished by FY 2003-04 and FY 2011-12 workers' compensation reform legislation, and to oppose legislation that increases workers' compensation benefits unless it maintains a fair and equitable balance for employers and employees within the reforms previously adopted by the Legislature; and 2) policy oppose legislation that eliminates current requirements that employees demonstrate on-the-job exposure in order to qualify for workers' compensation, **the Sacramento advocates will oppose AB 305.**

AB 305 is supported by: the American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO; California Applicants' Attorney Association; California Nurses Association; among others.

This measure is opposed by: the California State Association of Counties (CSAC); CSAC Excess Insurance Authority; California Coalition on Workers' Compensation; California Chamber of Commerce; Acclamation Insurance Management Services; Allied Managed Care; Association of California Insurance Companies, and others.

AB 305 is scheduled for a hearing in Senate Labor and Industrial Relations on June 24, 2015.

SB 208 (Lara), which as amended on June 1, 2015, would: 1) require a regional water management group, within 90 days of notice that a grant has been awarded, to provide the California Department of Water Resources (DWR) with a list of projects to be funded by the grant funds where the project proponent is a nonprofit organization or a disadvantaged community, or the project benefits a disadvantaged community; 2) require the DWR, within 60 days of receiving the project information, to provide an advanced payment of 50 percent of the grant award for those projects if the grant award is less than \$1 million; 3) require the advanced funds to be placed in a noninterest-bearing account until expended and spent within six months of receipt; and 4) require grant recipients to provide a quarterly accountability report to the DWR. The provisions of SB 208 would sunset on January 1, 2025.

Under the Integrated Regional Water Management Planning Act, a regional water management group is authorized to prepare and adopt an integrated regional water management plan with specified components relating to water supply and water quality. An integrated regional water management plan is eligible for funding allocated specifically for implementation of integrated regional water management.

Voter-approved Proposition 1 of 2014, the Water Quality, Supply and Infrastructure Improvement Act, authorizes the issuance of \$7.45 billion in State General Obligation bonds to finance a water quality, supply, and infrastructure improvement program. The Act specifies that \$810 million is to be available, upon appropriation by the Legislature, for expenditures on, and competitive grants and loans to, projects that are included in and implemented in an adopted integrated regional water management plan and respond to climate change and contribute to regional water security.

According to the author of SB 208, the current Integrated Regional Water Management (IRWM) funding mechanism created through past water bond measures reflects a pay-as-you-go system in which groups with approved plans provide funding for water projects up front and are reimbursed later. This mechanism is intended to save State General Funds, but instead threatens the success of regional programs and continued participation of interested stakeholders. Smaller communities and non-profit organizations are disproportionately impacted by the pay-as-you-go system as pre-financing water projects requires a larger budget than these stakeholders are often able to fund.

The Department of Public Works (DPW) reports that SB 208 would streamline the IRWM payment process for nonprofit organizations and disadvantaged communities. DPW notes that main beneficiary of a project would be nonprofit organizations or disadvantaged communities (DACs), which often do not have the technical, financial, and/or administrative capability to address water resource-related needs. Disadvantaged communities are defined in the Water Code as communities with an annual median household income that is less than 80 percent of the statewide annual median household income. The Department reports that technical assistance opportunities for DACs are limited and difficult to access. DPW indicates that advancing payments to assist DACs is a significant step toward addressing DACs water resources needs and encouraging DACs to participate in the IRWM process and bring projects forward for consideration.

This office and the Department of Public Works support SB 208. Therefore, unless otherwise directed by the Board, consistent with existing policy to support legislation to increase the reliability of State and local water supplies with appropriate infrastructure and equitable funding levels utilizing the following principles: Local Water Reliability and Conservation, Protection and Improvement of Water Quality, New Water Supplies, Conveyance and Storage, Equitable Allocation Criteria for Regional Projects, Bond

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Funding and Appropriations consistent with other County principles, and Delta Sustainability, **the Sacramento advocates will support SB 208.**

SB 208 is sponsored by the San Diego County Water Authority, and supported by: the California Municipal Utilities Association; Clean Water Action; Coachella Valley Regional Water Management Group; Coachella Valley Water District; Community Water Center; Environmental Justice Coalition for Water; Leadership Counsel for Justice and Accountability; Pueblo Unido Community Development Corporation; and San Jeardo Cooperative, Inc. There is no registered opposition on file.

SB 208 passed the Senate Floor by a vote of 31 to 5 on June 2, 2015. The measure now proceeds to the Assembly.

We will continue to keep you advised.

SAH:JJ:MR
VE:IGEA:gl

c: All Department Heads
Legislative Strategist
Local 721
Coalition of County Unions
California Contract Cities Association
Independent Cities Association
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City Managers Associations
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